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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/460,197

12/13/1999

JOHN SPENCER CUNNINGHAM

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05/08/2006

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/460,197

Applicant(s)

CUNNINGHAM ET AL.

Examiner

Kevin M. Nguyen

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2629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 23 February 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See continuation sheet.



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Continuation of 2.

The brief does not contain a statement of the status of all the claims, e.g., rejected, allowed or confirmed, withdrawn, objected to, or canceled, and identification of the claims being appealed as required by 37 CFR 41.37(c)(1)(iii). Appellant does not identify the appealed claims, e.g., claim 33 (appealed), claim 34 (non-appealed).

Continuation of 4.

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: ground of rejection under 35 U.S.C. 102 as being anticipated by Tomiyasu (US 5,138,305) filed 05/08/2002, ground of rejection under 35 U.S.C. 102 as being anticipated by Grothe (US 4,635,050) filed 11/27/2002, ground of rejection under 35 U.S.C. 103 as being unpatentable over Grothe (US 4,635,050) in view of Stoddard (US 3,665,454), and ground of rejection under 35 U.S.C. 103 as being unpatentable over Stoddard (US 3,665,454) in view of Brown (US 6,047,123) which the examiner are withdrawing because they are no longer applicable.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. Ground of rejection under 35 U.S.C. 103 as being unpatentable over Stoddard (US 3,665,454) in view of Cook (US 5,513,365).

Continuation of 5.

The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as

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corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v). Appellant misses an indication of the drawing corresponding to each claimed function for each independent claim.

A handwritten signature in black ink, appearing to read 'R. Hjerpe', is positioned above the printed name and title.

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